

REMARKS

Claims 39, 49 and 50 have been objected to and claims 43, 46 and 48 have been rejected under 35 USC 112, second paragraph. Claims 39, 43, 49 and 50 have been canceled and claims 46 and 48 have been amended. Applicant believes that the current claims are not open to objection under 37 CFR 1.75(c) or to rejection under 35 USC 112, second paragraph.

Claims 31-39, 42, and 44-50 stand rejected under 35 USC 102 over Elver. Claims 31-33, 40-43, 49 and 50 stand rejected under 35 USC 102 over Pizarro.

Claim 31 has been amended to recite that the heating means of the apparatus comprises a heating element attached to the lid or the base and that the heating element substantially encircles the plurality of pockets in the base to provide heating in the selected areas of contact surrounding the pockets. Use of a heating element as specified in claim 31 allows heat to be applied intermittently (e.g. heat on/heat off is possible every 20 or 30 seconds with automatic control if required) and in localized fashion. Claim 31 has also been amended to specify that the lid is hinged to the base.

Elver describes a combination sealing and cutting apparatus for producing containers in which paperboard card is bonded to a formed plastics member. The apparatus comprises a stationary platen formed with a plurality of cavities, and an individual formed plastics member is locatable in each cavity to form discrete individual sealed containers. A movable metal platen is located above the stationary platen in vertical alignment therewith and is movable towards and away from the stationary platen by means of an air cylinder.

As indicated above, amended claim 31 now recites that the lid is hinged to the base of the heat sealing apparatus and, accordingly, amended claim 31 distinguishes over Elver for at least this reason. Moreover, since it is a clear requirement in Elver that the stationary platen is maintained in vertical alignment with the movable platen (col. 3 lines 31 to 33), Elver

teaches away from providing a hinge mounting between the stationary and movable platens since a hinge mounting would not permit such vertical alignment to be maintained.

In the apparatus of Elver, the movable platen is heated to heat a heat-responsive plasticizer or cement provided on the paperboard card to thereby seal the card to the formed plastics member. In Elver, the entire movable platen is heated. Raised sealing ridges are provided on the movable platen to transfer the heat to selected areas of the card. Because the entire movable platen is heated, the heated sealing ridges cannot be heated briefly for each sealing operation (heat on/heat off every 20 or 30 seconds, as mentioned above).

Elver does not disclose a heating element attached to a surface of the platen to provide heating in selected areas, and amended claim 31 is thus further patentably distinguished over Elver for this reason.

In Elver, the raised sealing ridges serve the dual purpose of transferring heat to the selected areas of the card and of cutting the card and plastics sheets of the formed plastics members by virtue of cooperation with a continuous knife-like blade surrounding each cavity in the stationary platen. There is thus no teaching for the person of ordinary skill to provide heating in selected areas by providing a heating element attached to the platen in place of the raised sealing ridges since this would negate the advantageous cutting function provided by the apparatus.

Pizarro describes a device for sealing food containers or the like, by virtue of the application of heat and pressure to a flat, disk-shaped lid carrying a heat-softenable adhesive applied to one side. The device comprises a base having a recess in which an individual container to be sealed is locatable. A cover is hinged to the base. In order to heat the adhesive to effect sealing, the cover includes a resistance element in a heating disk disposed in a chamber of the cover. The heating disk causes the whole of the cover to be heated and heat is transferred from

the cover to selected areas of a pack to be sealed by virtue of annular ribs provided on the cover.

Like Elver, Pizarro does not disclose a heating element attached to a surface of the cover to heat the cover in selected areas, and amended claim 31 is thus novel over Pizarro for at least this reason.

In Pizarro, nested frustoconical shells can be used to accommodate containers of different sizes, and a plurality of concentric annular ribs are provided on the cover to ensure effective heating and therefore sealing irrespective of container size. Effective heat transfer via the concentric ribs can only occur when the entire cover is heated, and a person of ordinary skill is thus taught away from providing a heating element attached to the surface of the cover.

Moreover, the base of the heating apparatus in accordance with claim 31 comprises a plurality of pockets for receiving the plurality of formations depending from a first pack member. In contrast, the base of the Pizarro device comprises a single recess for receiving an individual formation, and amended claim 31 is thus further patentably distinguished over Pizarro for this reason.

In view of the foregoing, applicant submits that claim 31 is patentable. It follows that the dependent claims 37, 38, 41, 46-48 and 58 also are patentable.

The new claim 59 is based on claim 31 and further recites that the heating element is encased in silicone rubber.

Claim 59 is novel over Elver and Pizarro for at least the same reasons as claim 1, and since neither of these documents discloses or suggests encasing a heating element in silicone rubber, claim 59 is further patentably distinguished from these documents.

The new claim 60 is based on claim 59 and further recites that the heating element is formed from etched foil.

Claim 60 is novel over Elver and Pizarro for at least the same reasons as claim 59, and since neither of these documents

disclose or suggest a heating element formed from etched foil, claim 60 is further patentably distinguished from these documents.

In view of the foregoing, applicant believes that all claims now of record are patentable. Early allowance is requested.

An application data sheet reflecting a change in the applicant's address and the assignee's address is being submitted concurrently.

Respectfully submitted,



John Smith-Hill
Reg. No. 27,730

SMITH-HILL & BEDELL, P.C.
16100 N.W. Cornell Road, Suite 220
Beaverton, Oregon 97006

Tel. (503) 574-3100
Fax (503) 574-3197
Docket: SWIN 3307